



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R04-OAR-2017-0390; FRL-9978-59-Region 4]

Air Plan Approval and Air Quality Designation; KY;

Redesignation of the Kentucky Portion of the Louisville Unclassifiable Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 4, 2018, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (KDAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Kentucky that is within the bi-state Louisville, KY-IN fine particulate matter (PM_{2.5}) unclassifiable area (hereinafter referred to as the “bi-state Louisville Area” or “Area”) to unclassifiable/attainment for the 2012 primary annual PM_{2.5} national ambient air quality standard (NAAQS). The bi-state Louisville Area consists of Jefferson County and a portion of Bullitt County in Kentucky as well as Clark and Floyd Counties in Indiana. EPA now has sufficient data to determine that the bi-state Louisville Area is in attainment of the 2012 primary annual PM_{2.5} NAAQS. Therefore, EPA is proposing to approve Kentucky’s request and redesignate the Area to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS based upon complete, quality-assured, and certified ambient air monitoring data showing that the PM_{2.5} monitors in the bi-state Louisville Area are in compliance with the 2012 primary annual PM_{2.5} NAAQS.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0390 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Madolyn Sanchez may be reached by phone at (404) 562-9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA or Act) establishes a process for air quality management through the establishment and implementation of the NAAQS. After the promulgation of a new or revised NAAQS, EPA is required to designate areas, pursuant to section 107(d)(1) of the CAA, as attainment, nonattainment, or unclassifiable. On December 14, 2012, EPA revised the

primary annual NAAQS for PM_{2.5} at a level of 12 micrograms per cubic meter (µg/m³), based on a 3-year average of annual mean PM_{2.5} concentrations. *See* 78 FR 3085 (January 15, 2013).

EPA established the standard based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. On December 18, 2014, EPA designated the majority of areas across the country as nonattainment, unclassifiable/attainment, or unclassifiable¹ for the 2012 PM_{2.5} NAAQS based upon air quality monitoring data from monitors for calendar years 2011-2013. *See* 80 FR 2206 (January 15, 2015). EPA's January 15, 2015, rulemaking also described a process by which EPA would evaluate any complete, quality-assured, certified air quality monitoring data from 2014 that a state submitted for consideration before February 27, 2015. EPA stated that it would evaluate whether, with the inclusion of certified 2014 data, the 3-year design value for 2012-2014 suggests that a change in the initial designation would be appropriate for an area. If EPA agreed that a change in the initial designation would be appropriate, EPA would withdraw the designation announced in the January 15, 2015, document for such area before the effective date and issue another designation reflecting the inclusion of 2014 data.

In a follow-up designation action published on April 7, 2015 (80 FR 18535), EPA designated five areas as unclassifiable/attainment in Georgia, including two neighboring counties in the bordering states of Alabama and South Carolina, that were initially deferred in EPA's

¹ For the initial PM area designations in 2014 (for the 2012 annual PM_{2.5} NAAQS), EPA used a designation category of "unclassifiable/attainment" for areas that had monitors showing attainment of the standard and were not contributing to nearby violations and for areas that did not have monitors but for which EPA had reason to believe were likely attaining the standard and not contributing to nearby violations. EPA used the category "unclassifiable" for areas in which EPA could not determine, based upon available information, whether or not the NAAQS was being met and/or EPA had not determined the area to be contributing to nearby violations. EPA reserves the "attainment" category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

January 15, 2015, rulemaking. In the same action, EPA changed the designations for one area in Ohio, two areas in Pennsylvania, and one bi-state area with portions in Kentucky and Ohio from nonattainment to unclassifiable/attainment. The bi-state Louisville Area was changed from nonattainment to unclassifiable.

EPA initially designated the bi-state Louisville Area as nonattainment in its January 15, 2015, rulemaking based on ambient air quality data collected from 2011-2013. In that time period, a monitor in Clark County, Indiana, showed a violation of the 2012 PM_{2.5} NAAQS. Per its policy, EPA explained that it would change the designation for the Area if data showed that the monitor in Clark County, Indiana, met the 2012 PM_{2.5} NAAQS for the design value period 2012-2014, and Indiana elected to early certify 2014 ambient air quality data. Indiana submitted complete, quality-assured, and certified 2014 data from the ambient air quality monitor in Clark County, Indiana, by the prescribed deadline of February 27, 2015, showing that the monitor was attaining the NAAQS. However, as noted in the final technical support document (TSD) for the Area included in the docket for the January 15, 2015, rulemaking,² EPA explained that because air quality data in the Jefferson County, Kentucky portion of the Area were invalid due to issues with the collection and analysis of PM_{2.5} filter-based samples, EPA could only change the designation to unclassifiable. Therefore, EPA changed the designation of the Area from nonattainment to unclassifiable in the action published on April 15, 2015.

II. What are the criteria for redesignating an area from Unclassifiable to Unclassifiable/Attainment?

Section 107(d)(3) of the CAA provides the framework for changing the area designations for any NAAQS pollutants. Section 107(d)(3)(A) provides that the Administrator may notify the Governor of any state that the designation of an area should be revised “on the basis of air

² Available in the January 15, 2015, rulemaking docket as document number EPA-HQ-OAR-2012-0918-0322.

quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.” The Act further provides in section 107(d)(3)(D) that even if the Administrator has not notified a state Governor that a designation should be revised, the Governor of any state may, on the Governor’s own motion, submit a request to revise the designation of any area, and the Administrator must approve or deny the request.

When approving or denying a request to redesignate an area, EPA bases its decision on the air quality data for the area as well as the considerations under section 107(d)(3)(A).³ In keeping with section 107(d)(1)(A), areas that are redesignated to unclassifiable/attainment must meet the requirements for attainment areas and thus must meet the relevant NAAQS. In addition, the area must not contribute to ambient air quality in a nearby area that does not meet the NAAQS. The relevant monitoring data must be collected and quality-assured in accordance with 40 CFR Part 58 and recorded in the EPA Air Quality System (AQS) database. The designated monitors generally should have remained at the same location for the duration of the monitoring period.⁴

III. What is EPA’s rationale for proposing to redesignate the Area?

In order to redesignate the Area from unclassifiable to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS, the 3-year average of annual arithmetic mean concentrations (i.e., design value) over the most recent 3-year period must be less than or equal to 12.0 µg/m³ at all monitoring sites in the Area over the full 3-year period, as determined in accordance with 40 CFR 50.18 and Appendix N of Part 50. EPA reviewed PM_{2.5} monitoring data from monitoring stations in the bi-state Louisville Area for the 2012 primary annual PM_{2.5}

³ While CAA section 107(d)(3)(E) also lists specific requirements for redesignations, those requirements only apply to redesignations of nonattainment areas to attainment and therefore are not applicable in the context of a redesignation of an area from unclassifiable to unclassifiable/attainment.

⁴ See Memorandum from John Calcagni, Director, EPA Air Quality Management Division, entitled “Procedures for Processing Requests to Redesignate Areas to Attainment” (September 4, 1992).

NAAQS for the 3-year period from 2014-2016. These data have been quality-assured, certified, and recorded in AQS by Kentucky and Indiana, and the monitoring locations have not changed during the monitoring period. As summarized in Table 1, the design values for all monitors in the Area for the 2014-2016 period are below the 2012 primary annual PM_{2.5} NAAQS.

Table 1–2012 Annual PM_{2.5} Design Values for Monitors in the Bi-State Louisville Area for 2014-2016

County	Monitoring Site	2014-2016 Design Value (µg/m ³)
Clark County, IN	180190006	10.6
	180190008	8.7
Floyd County, IN	180431004	9.3
Jefferson County, KY	211110043	10.4
	211110051	10.3
	211110067	9.5
	211110075	10.4

Because the 3-year design values, based on complete, quality-assured data, demonstrate that the Area meets the 2012 primary annual PM_{2.5} standard, EPA is proposing to redesignate the Kentucky portion of the Louisville Area from unclassifiable to unclassifiable/attainment for this NAAQS.⁵

IV. Proposed Action

EPA is proposing to approve Kentucky’s May 4, 2018, request to redesignate the Kentucky portion of the bi-state Louisville Area from unclassifiable to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS. If finalized, approval of the redesignation request would change the legal designation, found at 40 CFR part 81, of the portion of Bullitt County located in the Area and Jefferson County, Kentucky, from unclassifiable to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS.

⁵ The State of Indiana has not yet submitted a redesignation request for its portion of the Louisville Area.

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to unclassifiable/attainment is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to unclassifiable/attainment does not in and of itself create any new requirements. Accordingly, this proposed action merely proposes to redesignate an area to unclassifiable/attainment and does not impose additional requirements. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because redesignations are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The proposed action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401, *et seq.*

Dated: May 15, 2018.

Onis “Trey” Glenn, III,
Regional Administrator,
Region 4.

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